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| FLIESLER MEYER LLP 650 CALIFORNIA STREET 14TH FLOOR SAN FRANCISCO, CA 94108 | | | EXAMINER DURAN, ARTHUR D | |
| | | | ART UNIT 3622 | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

OFFICEACTIONS@FDML.COM

Office Action Summary

Application No.

10/716,384

Applicant(s)

LAUGHLIN ET AL.

Examiner

Arthur Duran

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date 4/1/04

DETAILED ACTION

1. Claims 1-50 have been examined.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-42 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Based on Supreme Court precedent a method claim must (1) be tied to a particular machine or apparatus (see at least *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876)) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing (see at least *Gottschalk v. Benson*, 409 U.S. 63, 71 (1972)). A method claim that fails to meet one of the above requirements is not in compliance with the statutory requirements of 35 U.S.C. 101 for patent eligible subject matter. To correct this issue, the independent claim could be amended such that at least one significant feature (not just data gathering or outputting) of the body of the claims actively uses a technological apparatus (computer, server, processor, etc).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-22, 24, 27-41, 43, 45-47 are rejected under 35 U.S.C. 102(b) as being anticipated by Lockwood (5,576,951).

Claims 1, 24, 43, 45: Lockwood discloses a method for delivering a sales presentation, comprising:

providing a structure for said sales presentation;
generating a plurality of sales messages that are organized according to said structure;
generating a performance for each of said plurality of sales messages;
storing each of said performances in a signal bearing media;
permitting a plurality of company representatives to access said signal bearing media;
and having at least one of said plurality of representatives communicate said sales presentation to a prospect (Abstract; col 23, lines 37-41; col 4, lines 53-65; col 5, line 45-col 6, line 9; col 9, lines 5-23; col 10, lines 10-15; col 11, lines 2-10; Figures 2, 3, 5, 6).

In further regards to claim 24, 45, Lockwood discloses storing each of said performances in a searchable database that can be accessed (above citations; and, Figures 1, 6).

Claims 2, 28: Lockwood discloses the method of claim 1 wherein each of said plurality of sales messages are embodied in at least one message object (col 11, lines 2-10).

Claims 3, 29: Lockwood discloses the method of claim 1 wherein before generating said performance for each of said plurality of sales messages, the method further comprises generating at least one power position, said power position configured to communicate at least one sales message that is unique to a company (col 5, lines 45-55; col 9, line 55-col 10, line 10; col 4, lines 54-65). Note that in Lockwood that unique presentations are presented to the user

based on user interest and preference with the intent of presenting an engaging and persuasive presentation. Also, note that the presentations can include comparable items such as itinerary, travel dates, and costs.

Claims 4, 30: Lockwood discloses the method of claim 3 wherein said power position is comprised of a plurality of message objects (col 11, lines 2-10; Figure 6).

Claims 5, 31: Lockwood discloses the method of claim 1 wherein said structure is explained to said plurality of company representatives having access to said signal bearing media (Abstract).

Claims 6, 32: Lockwood discloses the method of claim 1 wherein said performance includes an audio performance (col 3, lines 57-65).

Claims 7, 33: Lockwood discloses the method of claim 1 wherein said performance includes a comment (col 10, lines 10-15).

Claims 8, 34, 46: Lockwood discloses the method of claim 1 wherein said performance includes an audio component and a video component (col 3, lines 57-65).

Claims 9: Lockwood discloses the method of claim 1 wherein said structure includes providing an agenda (col 5, lines 45-55; col 9, line 55-col 10, line 10).

Claims 10: Lockwood discloses the method of claim 1 wherein said structure includes providing a big picture (col 5, lines 45-55; col 9, line 55-col 10, line 10; col 4, lines 54-65).

Claims 11: Lockwood discloses the method of claim 1 wherein said structure includes providing a plurality of credentials (col 5, lines 45-55; col 9, line 55-col 10, line 10).

Claims 12: Lockwood discloses the method of claim 1 wherein said structure includes providing a grabber (col 4, lines 54-65).

Claims 13: Lockwood discloses the method of claim 1 wherein said structure includes providing a review of one or more sales messages that were previously presented (col 5, lines 45-55; col 9, line 55-col 10, line 10; col 4, lines 54-65).

Claims 14: Lockwood discloses the method of claim 1 wherein said structure includes providing a request for positive feedback from said prospect (col 5, lines 45-55; col 9, line 55-col 10, line 10; col 4, lines 54-65).

Claims 15: Lockwood discloses the method of claim 1 wherein said structure includes providing a response to negative feedback from said prospect (col 5, lines 45-55; col 9, line 55-col 10, line 10; col 4, lines 54-65).

Claims 16, 35, 47: Lockwood discloses the method of claim 1 further comprising receiving feedback about at least one of said plurality of sales messages (col 5, lines 45-55; col 9, line 55-col 10, line 10; col 4, lines 54-65).

Claims 17, 36: Lockwood discloses the method of claim 16 wherein after receiving feedback, the method further comprises modifying one of said performances (col 5, lines 45-55; col 9, line 55-col 10, line 10; col 4, lines 54-65).

Claims 18, 37: Lockwood discloses the method of claim 16 wherein after receiving feedback, the method further comprises modifying one of said plurality of sales messages (col 5, lines 45-55; col 9, line 55-col 10, line 10; col 4, lines 54-65).

Claims 19, 38: Lockwood discloses the method of claim 16 wherein after receiving feedback, the method further comprises generating a new message object (col 5, lines 45-55; col 9, line 55-col 10, line 10; col 4, lines 54-65).

Claims 20, 27, 39: Lockwood discloses the method of claim 1 further comprising permitting a portion of said plurality of company representatives to having limited access to said signal bearing media (col 22, line 1-col 23, line 14; col 19, line 40-col 20, line 15). Note in Lockwood that customers and service providers log on the system. And, note that there are a plurality of companies each with different accounts. Hence, the salesman for one company can access the account and report information for one company but not the information for another company. Hence, Lockwood anticipates these features.

Claims 21, 40: Lockwood discloses the method of claim 1 further comprising generating at least one illustrative sales presentation that conforms to said structure (Abstract).

Claims 22, 41: Lockwood discloses the method of claim 21 wherein each of said illustrative sales presentation have a particular length of time (col 9, lines 37-45).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 23, 25, 26, 42, 44, 48, 49, 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lockwood (5,576,951).

Claims 25, 26, 44, 49, 50: Lockwood discloses the above. Lockwood does not explicitly disclose utilizing servers, the Internet, or an intranet. However, Lockwood

discloses utilizing computers, networks, remote dialing, and online processing (Figures 1, 4, 12, 13, 15). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that Lockwood's invention can utilize common business technologies like the Internet, servers, and intranets. One would have been motivated to do this in order to better utilize available technologies that allow for better communication.

Claim 23, 42, 48: Lockwood discloses the above. Lockwood does not explicitly disclose that said performance is performed by an "all-star" sales person or that said display is configured to provide a virtual agent that explains said structure. However, as noted in the rejection of the claims above, Lockwood discloses advanced multimedia presentations, presenting presentations in an optimal manner for user attention (col 4, lines 53-65), narrative presentation, the use of interviews, and the use of voice recognition. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that Lockwood can utilize a an "all star" sales person in the electronic presentation or a virtual agent. One would have been motivated to do this in order to better present the information in a manner of interest.

Conclusion

The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

a) Balderrama (5,806,071); Hagen; and the other prior art cited on the Notice of References Cited disclose relevant features.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (571) 272-6718. The examiner can normally be reached on Mon- Fri, 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Primary Examiner
Art Unit 3622

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6/15/09